

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE NATIONAL PRESCRIPTION
OPIATE LITIGATION**

**MDL No. 2804
Case No. 17-md-2804
Judge Dan Aaron Polster**

This document relates to:

*The County of Cuyahoga v. Purdue
Pharma L.P., et al.*, Case No. 17-OP-45004

*The County of Summit, Ohio, et al. v.
Purdue Pharma L.P. et al.*,
Case No. 18-OP-45090

**NOTICE OF SERVICE OF DEFENDANTS'
MOTION TO EXCLUDE DAVID CUTLER'S
OPINIONS AND PROPOSED TESTIMONY**

Pursuant to the Directions Regarding Filing of Briefs Under Seal, ECF No. 1719, Certain Defendants¹ hereby provide notice that on June 28, 2019, they served unredacted copies of the following documents on all Parties, the Court, and the Special Masters:

¹ In this notice and the accompanying motion and memorandum, "Defendants" include Purdue Pharma, L.P.; Purdue Pharma, Inc.; The Purdue Frederick Company, Inc.; Endo Health Solutions Inc.; Endo Pharmaceuticals, Inc.; Par Pharmaceutical, Inc.; Par Pharmaceutical Companies, Inc. f/k/a Par Pharmaceutical Holdings, Inc.; Janssen Pharmaceuticals, Inc.; Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a Janssen Pharmaceuticals, Inc.; Janssen Pharmaceutica, Inc. n/k/a Janssen Pharmaceuticals, Inc.; Johnson & Johnson; Teva Pharmaceutical Industries, Ltd.; Teva Pharmaceuticals USA, Inc.; Cephalon, Inc.; Allergan plc f/k/a Actavis plc; Allergan Finance, LLC f/k/a/ Actavis, Inc. f/k/a Watson Pharmaceuticals, Inc.; Allergan Sales, LLC; Allergan USA, Inc.; Watson Laboratories, Inc.; Warner Chilcott Company, LLC; Actavis Pharma, Inc. f/k/a Watson Pharma, Inc.; Actavis South Atlantic LLC; Actavis Elizabeth LLC; Actavis Mid Atlantic LLC; Actavis Totowa LLC; Actavis LLC; Actavis Kadian LLC; Actavis Laboratories UT, Inc., f/k/a Watson Laboratories, Inc. - Salt Lake City; Actavis Laboratories FL, Inc., f/k/a Watson Laboratories, Inc. - Florida; Mallinckrodt plc; Mallinckrodt LLC; SpecGx LLC; AmerisourceBergen Drug Corporation; Andia, Inc.; Cardinal Health, Inc.; CVS Indiana, LLC; CVS Rx Services, Inc.; Discount Drug Mart, Inc.; HBC Service Company; Henry Schein, Inc.; Henry Schein Medical Systems, Inc.; McKesson Corporation; Miami-Luken, Inc.; Prescription Supply, Inc.; H.D. Smith Holding Company; H.D. Smith Holdings, LLC; H.D. Smith, LLC d/b/a HD Smith f/k/a H.D. Smith Wholesale Drug Co.; Health Mart Systems, Inc.; Rite Aid of Maryland, Inc.; Rite Aid of Maryland, Inc. d/b/a Rite-Aid Mid-Atlantic Customer Support Center, Inc.; Walgreen Co.; Walgreen Eastern Co.; and Walmart Inc. f/k/a Wal-Mart Stores, Inc. ("Defendants").

On June 10, 2019, Insys Therapeutics, Inc. and its affiliates each filed a voluntary case under chapter 11 of United States Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware, which cases are being

- Defendants' Motion to Exclude David Cutler's Opinions and Proposed Testimony;
- Memorandum in Support of Defendants' Motion to Exclude David Cutler's Opinions and Proposed Testimony;
- Declaration of Timothy W. Knapp in Support of Defendants' Motion to Exclude David Cutler's Opinions and Proposed Testimony, along with the corresponding Exhibits 1 to 6;
- [Proposed] Order Granting Motion to Exclude David Cutler's Opinions and Proposed Testimony; and
- Summary Sheet for Motion to Exclude David Cutler's Opinions and Proposed Testimony (also attached hereto as Exhibit A).

Dated: June 28, 2019

Respectfully Submitted,

/s/ Carole S. Rendon

Carole S. Rendon
BAKER & HOSTETLER LLP
Key Tower 127 Public Square, Suite 2000
Cleveland, OH 44114-1214
Telephone: (216) 621- 0200
Fax: (216) 696-0740
crendon@bakerlaw.com

/s/ Mark S. Cheffo

Mark S. Cheffo
DECHERT LLP
Three Bryant Park
1095 Avenue of the Americas
New York, NY 10036
Tel: (212) 698-3500
Mark.Cheffo@dechert.com

Counsel for Defendants Endo Health Solutions Inc. and Endo Pharmaceuticals Inc.; Par Pharmaceutical, Inc., and Par Pharmaceutical Companies, Inc.

Co-Liaison Counsel for the Manufacturer Defendants

Counsel for Defendants Purdue Pharma L.P., Purdue Pharma Inc., and The Purdue Frederick Company

Co-Liaison Counsel for the Manufacturer Defendants²

jointly administered under Case No. 19-11292 (KG). In light of this bankruptcy proceeding, Insys does not join any of the *Daubert* motions or summary judgment motions to be filed in the MDL Track One cases.

² Teva Pharmaceutical Industries Ltd., Allergan plc f/k/a Actavis plc, and Mallinckrodt plc are respectively an Israeli corporation, Irish holding company, and Irish company that are not subject to and contest personal jurisdiction for the reasons explained in their pending motions to dismiss for lack of personal jurisdiction; they are specially appearing to join this motion as a result of the Court's deadline to file dispositive and *Daubert* motions, and, thus, they do not waive and expressly preserve their pending personal jurisdiction challenges.

/s/ Kaspar Stoffelmayr

Kaspar Stoffelmayr
BARTLIT BECK LLP
54 West Hubbard Street
Chicago, IL 60654
Telephone: (312) 494-4434
Fax: (312) 494-4440
kaspar.stoffelmayr@bartlitbeck.com

Counsel for the Walgreens Defendants

*Liaison Counsel for the Chain Pharmacy
Defendants*

/s/ Shannon E. McClure

Shannon E. McClure
REED SMITH LLP
Three Logan Square
1717 Arch Street, Suite 3100
Philadelphia, PA 19103
Telephone: (215) 851-8100
Fax: (215) 851-1420
smcclure@reedsmith.com

*Counsel for Distributor Defendant
AmerisourceBergen Drug Corporation*

*Co-Liaison Counsel for the Distributor
Defendants*

/s/ Enu Mainigi

WILLIAMS & CONNOLLY LLP
Enu Mainigi
725 Twelfth Street, N.W.
Washington, DC 20005
Telephone: (202) 434-5000
Fax: (202) 434-5029
emainigi@wc.com

Counsel for Defendant Cardinal Health, Inc.

*Co-Liaison Counsel for the Distributor
Defendants*

/s/ Geoffrey Hobart

Geoffrey Hobart
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
Telephone: (202) 662-5281
ghobart@cov.com

*Counsel for Distributor Defendant
McKesson Corporation*

*Co-Liaison Counsel for the Distributor
Defendants*

CERTIFICATE OF SERVICE

I, Donna M. Welch, hereby certify that the foregoing document was served via the Court's ECF system to all counsel of record.

/s/ Donna M. Welch

Donna M. Welch
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654
Tel: (312) 862-2000
donna.welch@kirkland.com